

Applicant: David J. Pinsky
U.S. Serial No.: 09/374,586
Filed: August 13, 1999
Page 2

subclass 2; and

II. Claims 17-20, drawn to transgenic animals and methods of use, classified in class 800, subclass 8.

The Examiner stated that the inventions are distinct, each from the other. The Examiner stated that the inventions of group I and II are drawn to materially different physical and chemical properties, structures and utilities. The Examiner stated that the invention of group I is drawn to a polypeptide for stroke prevention, such as CD39 or a fragment thereof, and a composition comprising such, as compared to the inventions of group II which is drawn to a CD39 knockout transgenic mouse.

The Examiner stated that the inventions of group I and II are also drawn to materially different methods. The Examiner stated that the invention of group I is drawn to methods of treatment or prevention of a thrombotic or ischemic disorder in a subject via the administration of an agent which inhibits ADP catabolism, while the invention of group II is to the use of a transgenic animal in testing the ability of compounds to prevent thrombotic or ischemic disorders.

The Examiner stated that these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their divergent classifications, recognized divergent subject matter and further because the searches required for the different inventions are not coextensive. The Examiner stated that restriction for examination purpose as indicated is proper.

Response with traverse

In response, applicant hereby elects, with traverse, group I, i.e. claims 1-16 and 21-26.

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Applicant: David J. Pinsky
U.S. Serial No.: 09/374,586
Filed: August 13, 1999
Page 3

With respect to claims of groups II, applicant respectfully traverses the Examiner's position. Specifically, under 35 U.S.C. §121, restriction may be required if two or more independent and distinct inventions are claimed in one application. Under M.P.E.P. §803, the Examiner must examine the application on the merits, even though it includes claims to distinct inventions, if the search and examination of an application can be made without serious burden.

The inventions of the claims in groups I are not independent from that in group II. Under M.P.E.P. §802.01, "independent" means there is no disclosed relationship between the subjects disclosed.

The invention of group I claims is drawn to methods of treatment or prevention of a thrombotic or ischemic disorder in a subject via the administration of an agent which inhibits ADP catabolism, while the invention of group II is drawn to methods of determining whether a compound can be used to prevent thrombotic or ischemic disorders using a transgenic animal as a model. Applicant respectfully points out that both the methods of treatment or prevention of a thrombotic or ischemic disorder and the methods of determining whether a compound can be used to prevent thrombotic or ischemic disorders. Applicant contends that the methods of group I claims and methods of group II claims are related.

Applicant further submits that there would not be a serious burden on the Examiner to examine all of the claims in the subject application. M.P.E.P. § 803 unambiguously provides that "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent and distinct inventions." In the instant case, any search drawn to methods of treatment or prevention of a thrombotic or ischemic

Applicant: David J. Pinsky
U.S. Serial No.: 09/374,586
Filed: August 13, 1999
Page 4

disorder would uncover art relating to methods of determining whether a compound can be used to prevent thrombotic or ischemic disorders. Therefore, group I claims and group II claims could be efficiently examined in this application.

In view of the foregoing amendments and remarks, applicant maintains that the January 27, 2000 restriction requirement is not proper and respectfully requests that the Examiner reconsider and withdraw the requirement.

Sequence Rules

In the January 27, 2000 Office Action, the Examiner stated that this application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 C.F.R. §1.821(a)(1) and (a)(2). The Examiner stated that this application fails to comply with the requirements of 37 C.F.R. §1.821 through §1.825 for the reason(s) set forth on the attached Notice to Comply With Requirements for Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures. The Examiner stated that failure to comply with these requirements will result in ABANDONMENT of the application under 37 C.F.R. §1.821(g).

In response, applicant hereby submits a paper copy of the sequence listing as **Exhibit 1** to fulfill the requirements of 37 C.F.R. §1.821 and §1.825 in connection with the subject application.

Applicant further submits the sequence listing in a computer readable form which complies with the requirements of 37 C.F.R. §1.824. In addition, applicant submits herewith as **Exhibit 2** a Statement in Accordance with 37 C.F.R. §1.821(f), certifying that the computer readable form containing the sequence listing contains the same information as the submitted paper copy of the

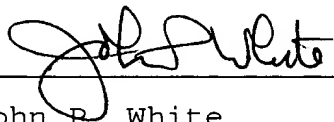
Applicant: David J. Pinsky
U.S. Serial No.: 09/374,586
Filed: August 13, 1999
Page 5

Sequence Listing. Therefore, applicants have fully complied with the requirements of 37 C.F.R. §1.821 through §1.825.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicant's undersigned attorney invites the Examiner to telephone him at the number provided below.

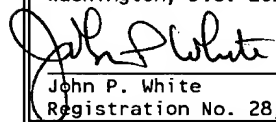
No fee, other than the \$55.00 extension of time fee, is deemed necessary in connection with the filing of this Communication. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,



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I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:
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John P. White Date
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